

**THE LAW OFFICE OF
THOMAS M. FERLAUTO, APC**

Attorneys For: Plaintiff JESUS ESCOCHEA

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

COMES NOW, Plaintiff JESUS ESCOCHEA, an individual (“Plaintiff”), and for causes of action against Defendants THE COUNTY OF LOS ANGELES, a public entity (the “County”), RONALD VALDIVIA, a Los Angeles County District Attorney Bureau of Investigations Senior Investigator (“Valdivia”), STEVE COOLEY, in his official capacity as Los Angeles County District Attorney (“Cooley”); JACKIE LACEY, in her official capacity as Los Angeles County District Attorney (“Lacey”); KEITH KAUFFMAN, a Captain within the Hawthorne Police Department (“Kauffman”); and THE CITY OF HAWTHORNE, a public entity (hereinafter the “City”) (hereinafter the County, Valdivia, Cooley, Lacey, Kauffman and the City shall collectively be referred to as the “Defendants”) alleges as follows:

JURISDICTION

2 1. This court has subject matter jurisdiction over this dispute pursuant to 28 USC
3 § 1331 granting Federal district courts original jurisdiction in actions arising under the
4 Constitution, laws, or treaties of the United States. This dispute raises a Federal question under
5 42 USC § 1983.

VENUE

22 5. Defendant Valdivia is and at all times herein mentioned has been an individual
23 acting under color of authority, as a Peace Officer, within the meaning of California Penal Code
24 830.1. Valdivia was an employee of the Bureau acting under Defendants the County, Cooley
25 and Lacey's direction and control, which knowingly and intentionally promulgated, maintained,
26 applied, enforced, and suffered the continuation of acts, policies, customs, practices and usages
27 in violation of the First, Fourth and Fourteenth Amendment to the United States Constitution

1 and the State of California's Constitution, which customs, practices, and usages at all times
 2 herein mentioned cause Plaintiff's harm.

3 6. Defendant Kauffman was at all times herein mentioned Captain of the
 4 Hawthorne Police Department and an individual acting under color of authority, as a Peace
 5 Officer, within the meaning of California Penal Code section 830.1. Kauffman as a Captain was
 6 a final decision maker for the City of Hawthorne knowingly and intentionally promulgated,
 7 maintained, applied, enforced, and suffered the continuation of acts, policies, customs, practices
 8 and usages in violation of the First, Fourth and Fourteenth Amendment to the United States
 9 Constitution and the State of California's Constitution, which customs, practices, and usages at
 10 all times herein mentioned cause Plaintiff's harm.

11 7. The City is an incorporated municipal government in the County of Los Angeles,
 12 the operator of the Hawthorne Police Department and the employer of Defendant Kauffman. At
 13 all times herein mentioned, the County and Kauffman possessed the power and authority to
 14 adopt policies and prescribe rules, regulations and practices affecting the operation of the
 15 Hawthorne Police Department, (the "Department") its employees, its tactics, methods, customs,
 16 and usages related to criminal investigations, its supervision of personnel and other things.

GENERAL FACTUAL BACKGROUND

18 8. Plaintiff is a local investigative journalist who has covered news events and
 19 produced several investigative news stories throughout the United States since 1994. He is a
 20 member of the press and has continuously possessed a valid press pass issued by the Los Angeles
 21 County Sheriff's Department.

22 9. In 2009, allegations of corruption were made against top level employees for the
 23 City of Hawthorne in the State of California (the "City"). Plaintiff, as an investigative journalist,
 24 became involved in investigating these allegations of political corruption.

25 10. Between 2009-2011, Plaintiff developed relationships with confidential
 26 informants working in and around the City government. Plaintiff gathered information from
 27 individuals who had exclusive access to confidential information. As a result of Plaintiff's
 28 investigative journalism, Plaintiff uncovered evidence of corruption as follows:

- 1 a. City Manager Jag Pathirana, pressured Hawthorne Civil Service
 2 Commissioners to change their vote on Police misconduct hearings;
- 3 b. City Manager Pathirana and Accounting Manager Louis Escobar were
 4 involved in a drunken incident at the Wild Goose Strip Club in Lawndale, during which
 5 Pathirana impersonated a police officer and top level Police Department employees later engaged
 6 in a cover up;
- 7 c. The City misappropriated over 2 million dollars in HUD funds;
- 8 d. City employees were seen breaking into City Hall and stealing documents
 9 following the termination of City Manager Pathirana;
- 10 e. Former Hawthorne Police Chief Michael Heffner intentionally and
 11 strategically delayed opening a promotional exam for Lieutenant and Sergeant for the purpose of
 12 effectively eliminating applications from disfavored employees who were off or not due back at
 13 work until the application period closed.

14 11. As a result of Plaintiff's investigation, City officials determined that further
 15 inquiry and interviews were necessary. In April of 2010, Interim City Manager Jim Mitch and
 16 City Councilman Alex Vargas hired private investigator Ed Ortega (hereinafter "Ortega") to
 17 further investigate corruption allegations against City employees. Ortega was hired as an agent of
 18 OHI Services, a licensed investigation company. As a result of Plaintiff and Ortega's
 19 investigation, various City employees were terminated, abruptly resigned, or were not promoted.
 20 In an effort to avoid potential civil liability for Ortega's investigation, Keith Raymond, owner of
 21 OHI, disowned Ortega, falsely alleged that Ortega was not an agent of OHI, and implied that
 22 Ortega had been falsely impersonating Raymond.

23 12. Plaintiff is informed and believes and based upon that information and belief
 24 alleges that Defendant Valdivia had a close personal relationship with members of the Hawthorne
 25 Police Department and with City employees who had been fired, resigned or not promoted as a
 26 result of Plaintiff and Ortega's disclosures. This group, including Defendant Kauffman,
 27 contacted Valdivia and convinced, coerced or cajoled him into opening a criminal investigation
 28 to illegally retaliate against Plaintiff and Ortega for their disclosures of corruption in the City of

THE LAW OFFICE OF
 THOMAS M. FERRIAUTO, APC
 8 WHATNEY AVENUE, SUITE 101
 IRVINE, CALIFORNIA 92618
 PHONE (949) 334-8650
 FACSIMILE (949) 334-8691

1 Hawthorne and to prevent or interfere with Plaintiff's exercise of his First Amendment rights of
2 freedom of speech and freedom of the press.

3 13. On November 17, 2010, Valdivia and his partner, both armed, accosted Plaintiff in
4 his driveway at his home. Valdivia refused to allow Plaintiff to move about, refused Plaintiff's
5 request to speak with his lawyer and proceeded to aggressively question Plaintiff about his
6 investigation into corruption in the City of Hawthorne. Ominously, Valdivia cautioned Plaintiff
7 to "stay away from Hawthorne" and told him that he had "been warned." He also threatened that
8 Plaintiff would end up being the "fall guy" for Chris Blatchford, a highly lauded investigative
9 reporter for KTTV Fox 11. Thus, Valdivia was obviously aware that Plaintiff was acting in his
10 capacity as an investigative journalist.

11 14. On or about January 18, 2011, Valdivia generated a criminal investigation against
12 Ortega. On or about April 18, 2011, Valdivia obtained a search and arrest warrant for Ortega,
13 and "Locations 1-5" issued by Judge Henry Hall. These five locations were various locations
14 associated with Ortega in the City of Ridgecrest, California. On April 19, 2011, a felony
15 criminal complaint was filed against Ortega, LASC Case No. SA077354. On April 20, 2011,
16 Ortega was arrested, and computers, guns, and other items were seized from Locations 1-5.

17 15. On April 27, 2011, a purported additional search warrant for Location #6 was
18 allegedly issued, again by Judge Hall. Location #6 was 17725 Crenshaw Blvd., Suite 304,
19 Torrance, California. This office has been occupied by Plaintiff since 1999 as Plaintiff's office as
20 an investigative journalist. Ortega is not associated with this address, has never done business
21 out of this address, and has never received mail at this address.

22 16. On April 28, 2011, while Plaintiff was away from his office attending Ortega's
23 arraignment, Valdivia executed the search warrant on location #6, and proceeded to search
24 Plaintiff's office. Valdivia seized Plaintiff's computer, hard drives, and various other media
25 recording devices. The property seized included a wealth of confidential information connected
26 to Plaintiff's investigation into political corruption in the City of Hawthorne. A service copy of
27 this warrant is attached hereto as **Exhibit 1**. A list of the items seized from Plaintiff's office is
28 attached hereto as **Exhibit 2**.

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1 17. Plaintiff is informed and believes and based upon that information and belief
2 alleges that the search warrant executed by Valdivia was NOT the search warrant issued by Judge
3 Hall. It is Judge Hall's practice to carefully review each page of a search warrant, make
4 interlineations limiting the scope of the search warrant, as appropriate, and then initial each and
5 every page of the search warrant. Judge Hall followed his procedure on the search warrant for
6 locations 1-5. He limited the items to be seized to only those items actually belonging to Ortega,
7 and he initialed each and every page. However, the search warrant, as executed on Location #6,
8 deviated significantly from Judge Hall's ordinary procedure. The face page of the search warrant
9 for Location #6 appears to be signed by Judge Hall. However, the following pages were not
10 initialed and did not contain any interlineations limiting the property to be seized to that property
11 belonging to Ortega.

12 18. Plaintiff is informed and believes and based upon that information and belief
13 alleges that Valdivia sought a search warrant for Location #6 for the improper purpose of
14 harassing Plaintiff and interfering with Plaintiff's investigation into political corruption in the
15 City of Hawthorne. Valdivia also sought to improperly seize the property of Plaintiff, including
16 property that contained confidential information concerning corruption in the City of Hawthorne.
17 This harassment was intended to interfere with Plaintiff's Constitutional right of freedom of
18 speech and freedom of the press as guaranteed in the First Amendment. However, upon issuing
19 the search warrant for Location #6, Judge Hall's interlineations limited the search warrant to that
20 property belonging to Ortega (just as he had modified the warrant for locations 1-5). As such,
21 the search warrant, as actually issued and initialed by Judge Hall, would not have permitted
22 Defendant Valdivia to seize property belonging to Plaintiff (which was the entire reason for
23 executing a search warrant on Location #6 — Plaintiff's office). So, Valdivia, or someone
24 working on his behalf, took the search warrant as actually issued by Judge Hall and unlawfully
25 modified it by removing the pages with Judge Hall's initials and limiting interlineations and
26 replacing those pages with different pages not approved of by Judge Hall. Thus, Valdivia
27 unlawfully modified a limited search warrant issued by Judge Hall into an unlimited search
28

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1 warrant that would give Valdivia apparent justification for seizing Plaintiff's confidential
2 investigative work product.

3 19. Plaintiff did not know and could not reasonably have known that the search
4 warrant executed against Location #6 was unlawfully modified. A service copy of the warrant
5 was left with the manager of the office building wherein Plaintiff's office was located. However,
6 the original was sealed in the Ortega criminal court file. Plaintiff was not aware of Judge Hall's
7 practice of initialing each page of a warrant and had no other reason to suspect that the search
8 warrant had been unlawfully modified before it was executed. In fact, Valdivia intentionally
9 concealed the fact that the warrant for Location #6 had been unlawfully modified before its
10 execution.

11 20. On March 5, 2012, Plaintiff filed a motion in Ortega's criminal action for the
12 return of his seized property. On April 25, 2012, at a hearing in connection with Plaintiff's
13 motion, Valdivia confirmed that the Search Warrant for location #6 was sealed by order of Judge
14 Hall but failed to disclosed that the search warrant as executed was different from the warrant as
15 issued. On May 18, 2012, Plaintiff's motion to return property was granted in part. Some but
16 not all of Plaintiff's seized property was returned. Valdivia still refuses to return some property,
17 including confidential audio recordings of conversations relevant to Plaintiff's investigation of
18 corruption in the City of Hawthorne.

19 21. On April 3, 2013, Ortega filed a motion to dismiss his criminal prosecution under
20 Penal Code section 995. Finally, on January 13, 2014, Ortega's criminal case was dismissed in
21 its entirety.

22 22. A few months after the dismissal of Ortega's criminal case (in February, March or
23 April of 2014), Plaintiff obtained copies of various documents concerning Ortega's criminal
24 prosecution. These documents happened to include a copy of the search warrant for locations
25 1-5, which had Judge Hall's initials and limiting interlineations.

26 23. On July 29, 2015, Plaintiff met with Attorney Lisa Houlé. When comparing the
27 warrants, attorney Lisa Houlé for the first time noticed a discrepancy between the warrant for
28 location 1-5 and the warrant for location 6. All of the pages for the warrant for locations 1-5

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1 bore the judge's initials at the bottom right hand corner of every page and contained limiting
 2 interlineations. However, the warrant for location 6 did not have the judge's initials on the
 3 bottom right hand corner, and although substantially similar to the warrant for locations 1-5, the
 4 warrant for location 6 did not bear any of the judge's limiting interlineations.

5 24. On July 30, 2015, Attorney Houlé met with Judge Hall to present to him a service
 6 copy of the search warrant for location 6. Judge Hall looked at the warrant and said, "I know I
 7 didn't sign this warrant because my initials are not at the bottom of every page. It looks like my
 8 signature but I have no idea how if got there."

9 25. On September 1, 2015, Attorney Lisa Houlé again met with Judge Hall, and he
 10 confirmed that it is his regular practice to initial the bottom of every page of a warrant and
 11 expressed concern that his initials are not on the pages of the warrant for location #6.

12 26. On November 12, 2015, Judge Hall conducted an in camera review of the actual
 13 sealed warrants in criminal case LASC Case No. SA077354. As to the April 18, 2011 warrant
 14 (for locations 1-5), he found that the signature and other writings on the face of the warrant, the
 15 original sealing order, and the handwritten limitations on the property that could be seized were
 16 all in blue ink and appeared genuine. Each page of the warrant's description section,
 17 documentation, affidavits and exhibits bears Judge Hall's initials on or near the bottom right
 18 corner which are also in blue ink and appear to be genuine and consistent with Judge Hall's
 19 practice when reading and ruling on requests for issuance of warrants.

20 27. During the November 12, 2015, in camera review, Judge Hall also found that the
 21 April 27, 2011, search warrant (for location #6) appears to be an extension of the April 18, 2011,
 22 search warrant to a different address. As to this search warrant, the signature and other writing
 23 on the face of the warrant and the original sealing order are in blue ink and appear to be genuine.
 24 However, Judge Hall's initials do not appear on any of the pages of the description section,
 25 supporting documentation, which would be at odds with Judge Hall's practice. Moreover, the
 26 handwritten limitations in the description section of the April 18, 2011, search warrant, do not
 27 appear on the very similar April 27, 2011, search warrant. As the statement of probable cause in
 28 the April 27 2011, search warrant is essentially the same as and incorporates the statement of

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1 probable cause in the April 18, 2011, search warrant, Judge Hall would have imposed similar
2 limitations on the scope of the authorized search. Judge Hall's Findings from the In Camera
3 Review is attached hereto as **Exhibit 3**.

4 28. It was not until the receipt of Judge Hall's findings on November 13, 2015
5 concerning his in camera inspection of the sealed warrants that Plaintiff had any reason to
6 believe that Defendants had wrongfully executed a modified warrant to illegally seize Plaintiff's
7 property. As such, no reasonable investigation of the facts would have or did reveal a factual
8 basis for the causes of action that Plaintiff brings, and any statute of limitations had not begun to
9 run or was tolled as a result of Defendants concealment of the modification of the search warrant
10 for location #6, in violation of California law, and Plaintiff's rights under the California and
11 Federal Constitutions.

12 29. Defendant Valdivia's actions as alleged above were committed "under color of
13 law" and in the course and scope of his employment with Defendant the County. Defendant the
14 County subsequently condoned and ratified Defendant Valdivia's actions. Alternatively,
15 Defendant the County was grossly negligent in the recruitment, training, and management of
16 Defendant Valdivia and that negligence proximately caused the injuries suffered by Plaintiff and
17 alleged herein.

18 30. As a direct and proximate result of Defendants actions as herein alleged, Plaintiff
19 has been damaged. Plaintiff suffered economic loses in that he lost the use of his property
20 wrongly seized. He lost the value of the property seized and never returned. He lost the
21 economic benefit of his work product as an investigating journalist. He lost income as an
22 investigative journalist due to the interference with his First Amendment rights in that he was
23 fearful to pursue his profession and other were fearful of confiding in him and otherwise working
24 with him. Thus, his income as an investigative journalist was severely impaired. He also
25 suffered general damages as a result of the tortious violations of his civil rights, including
26 without limitation, the infliction of emotional distress that was both severe and enduring.

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FIRST CAUSE OF ACTION

Violation of 42 USC 1983 Against All Defendants

31. Plaintiff incorporates Paragraphs 1-30 above, as if fully restated herein.

4 32. Defendants, all acting under color of authority, deprived Plaintiff of his rights,
5 privileges, or immunities secured by the State and Federal Constitution, by executing or causing
6 to be executed an unlawfully modified search warrant on Plaintiff's office and seizing his
7 property and confidential investigative journalist work product all for the purpose of harassing
8 Plaintiff to prevent or chill his exercise of his right of freedom of speech and freedom of the
9 press as guaranteed in the First Amendment to the United States Constitution.

10 33. Furthermore the County and the Bureau have policies and procedures that require
11 that an investigation that resulted in the seizure of evidence pursuant to a search warrant be
12 monitored periodically for proper disposition of the seized property. Despite this, Plaintiffs
13 remained deprived of access to and use of his Property, even after the case was dismissed by the
14 Los Angeles County District Attorney. Defendants the County, Cooley and Lacey knew that the
15 wrongful conduct of Defendant Valdivia created a substantial risk of harm to Plaintiffs, and
16 Defendants the County, Cooley and Lacey acquiesced to Defendant Valdivia's failures and
17 Defendants the County, Cooley and Lacey failed to take adequate action to ensure compliance
18 with the applicable policies and procedures, so as to prevent the wrongful conduct that harmed
19 Plaintiffs. The actions and inactions of Defendants the County, Cooley and Lacey and Valdivia
20 were substantial factors in causing Plaintiff's harm.

21 34. As a direct, proximate and foreseeable result of Defendant's violation of 42 USC
22 1983 as alleged herein, Plaintiff has been damaged as alleged herein above in paragraph 30. The
23 exact amount of this damage is not currently known to Plaintiff, who will seek leave of court to
24 amend this complaint upon ascertaining the precise amount of said damages.

35. As a result of Defendants' tortious conduct as alleged above, Plaintiff has
suffered, and will continue to suffer, general damages. The full amount of these damages is not
currently known to Plaintiff, who will seek leave of court to amend this complaint upon
ascertaining the precise amount of said damages.

1 36. The conduct of the Defendants, and each of them, was wanton, willful, deliberate,
2 and in conscious disregard of the rights and feelings of Plaintiff, was undertaken with the intent
3 to cause Plaintiff injury and constitutes malice, actual, express and implied. Accordingly,
4 Plaintiff is entitled to an award of exemplary damages against Defendants, in a sum to be
5 established at trial sufficient to deter future similar conduct.

SECOND CAUSE OF ACTION

(Monell Claim) Unlawful Custom and Practice Under 42 U.S.C. § 1983

Against Defendant the County and the City

37. Plaintiff incorporates Paragraphs 1-30 above, as if fully restated herein.

38. The County and the City are and at all times herein mentioned have been public
s duly authorized and existing as such in and under the laws of the State of California;
all times herein mentioned, the County and the City possessed the power and authority to
policies and prescribe rules, regulations and practices affecting the operation of the
u and the Department, respectfully, and their tactics, methods, customs, and usages related
ninal investigations, and personnel supervision, among other things.

16 39. The County and the City knowingly and intentionally promulgated, maintained,
17 applied, enforced, and continued policies, customs, practices and usages in violation of the First,
18 Fourth and Fourteenth Amendment respectively to the United States Constitution, which
19 customs, practices, and usages at all times herein mentioned cause Plaintiff's harm.

40. The County and the City knowingly maintain and permit official sub-rosa
policies and customs of permitting the occurrence of the kinds of wrongs set forth in this
Complaint, despite such occurrences being in direct contravention of County and City policy
and the Penal Code.

24 41. As a direct, proximate and foreseeable result of Defendants' violation of 42 USC
25 1983 as alleged herein, Plaintiff has been damaged as alleged herein above in paragraph 30. The
26 exact amount of this damage is not currently known to Plaintiff, who will seek leave of court to
27 amend this complaint upon ascertaining the precise amount of said damages.

1 42. As a result of Defendants' tortious conduct as alleged above, Plaintiff has
2 suffered, and will continue to suffer, general damages. The full amount of these damages is not
3 currently known to Plaintiff, who will seek leave of court to amend this complaint upon
4 ascertaining the precise amount of said damages.

5 43. The conduct of the Defendants, and each of them, was wanton, willful, deliberate,
6 and in conscious disregard of the rights and feelings of Plaintiff, was undertaken with the intent
7 to cause Plaintiff injury and constitutes malice, actual, express and implied. Accordingly,
8 Plaintiff is entitled to an award of exemplary damages against Defendants, in a sum to be
9 established at trial sufficient to deter future similar conduct.

THIRD CAUSE OF ACTION

Negligence, Against Defendant Valdivia

44. Plaintiff incorporates Paragraphs 1-30 above, as if fully restated herein.

3 45. The California Penal Code sets forth multiple mandatory, ministerial duties upon
4 Peace Officers who seek, obtain and execute search warrants, for the purpose of providing notice
5 to persons like Plaintiffs, who have had their property seized, so that they have the ability to
6 challenge the seizure before the court.

17 46. By failing to return the unaltered search warrant for location #6 to the Los
18 Angeles County Superior Court, along with its Statement of Probable Cause, Defendants
19 prevented a public judicial record from being created of the actual warrant issued. Defendant
20 Valdivia failed to do these things in violation of a statutory duty to do so. Defendant Valdivia
21 breach of those duties, harmed, and damaged Plaintiff.

22 47. As a direct, proximate and foreseeable result of Defendant's negligence as alleged
23 herein, Plaintiff has been damaged as alleged herein above in paragraph 30. The exact amount of
24 this damage is not currently known to Plaintiff, who will seek leave of court to amend this
25 complaint upon ascertaining the precise amount of said damages.

26 48. As a result of Defendants' tortious conduct as alleged above, Plaintiff has
27 suffered, and will continue to suffer, general damages. The full amount of these damages is not

1 currently known to Plaintiff, who will seek leave of court to amend this complaint upon
2 ascertaining the precise amount of said damages.

3 49. The conduct of the Defendants, and each of them, was wanton, willful, deliberate,
4 and in conscious disregard of the rights and feelings of Plaintiff, was undertaken with the intent
5 to cause Plaintiff injury and constitutes malice, actual, express and implied. Accordingly,
6 Plaintiff is entitled to an award of exemplary damages against Defendants, in a sum to be
7 established at trial sufficient to deter future similar conduct.

FOURTH CAUSE OF ACTION

Negligence, Against Defendant the County

10 ||| 50. Plaintiff incorporates Paragraphs 1-30 above, as if fully restated herein.

11 51. Defendants the County, Cooley, Lacey owed a duty to Plaintiffs to ensure that the
12 mandatory ministerial provisions of the Penal Code, as well as Defendants' own internal policies,
13 were complied with, as the Penal Code and Defendants' policies establish non-discretionary
14 ministerial duties upon the Defendants, for the benefit of persons like Plaintiffs. Defendant the
15 County was negligent for failing to ensure that its own internal policies and various mandatory
16 Penal Code provisions were complied with by its employee, Defendant Valdivia.

17 52. Defendants the County, Cooley and Lacey failed to implement adequate
18 procedural safeguards to prevent the violations of Plaintiffs' rights, and were deliberately
19 indifferent to Plaintiffs' rights, despite having policies in place to prevent such violations.
20 Defendants the County, Cooley and Lacey negligently oversaw the actions of Defendant Valdivia
21 and Defendants the County, Cooley and Lacey failed to properly supervise Defendant Valdivia,
22 to ensure that Valdivia was in compliance with the County and the Bureau's internal policies, as
23 well as the the Penal Code's mandatory provisions that are for the benefit of Plaintiffs. Had
24 Defendants the County, Cooley and Lacey acted to ensure compliance with its internal policies,
25 the violation of Plaintiffs' rights would have been prevented. As a result of Defendants the
26 County, Cooley and Lacey's failure to ensure compliance with its internal polices and the Penal
27 Code, and to properly supervise Defendant Valdivia, Plaintiff was harmed.

1 53. As a direct, proximate and foreseeable result of Defendant's negligence as alleged
 2 herein, Plaintiff has been damaged as alleged herein above in paragraph 30. The exact amount of
 3 this damage is not currently known to Plaintiff, who will seek leave of court to amend this
 4 complaint upon ascertaining the precise amount of said damages.

5 54. As a result of Defendants' tortious conduct as alleged above, Plaintiff has
 6 suffered, and will continue to suffer, general damages. The full amount of these damages is not
 7 currently known to Plaintiff, who will seek leave of court to amend this complaint upon
 8 ascertaining the precise amount of said damages.

9 55. The conduct of the Defendants, and each of them, was wanton, willful, deliberate,
 10 and in conscious disregard of the rights and feelings of Plaintiff, was undertaken with the intent
 11 to cause Plaintiff injury and constitutes malice, actual, express and implied. Accordingly,
 12 Plaintiff is entitled to an award of exemplary damages against Defendants, in a sum to be
 13 established at trial sufficient to deter future similar conduct.

FIFTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress Against All Defendants

15 56. Plaintiff incorporates Paragraphs 1-30 above, as if fully restated herein.

16 57. Defendants owed Plaintiffs a duty of care pursuant to the State and Federal
 17 Constitutions, various Penal Code sections, as well as County's and City's internal policies that
 18 were promulgated to protect the rights of persons like Plaintiff.

19 58. Defendants breached those duties, and Defendants' conduct was outrageous. As
 20 a result of the breach, Defendants directly damaged Plaintiff, who suffered emotional distress.
 21 Plaintiff suffered emotional distress including but not limited to fear, apprehension, nervousness,
 22 shock, humiliation for apparently being investigated for a crime he did not commit, loss of sleep,
 23 anxiety, financial anxiety, worry and other emotional distress according to proof. In addition,
 24 Defendant Valdivia's actions and manner of investigating Plaintiff for a crime he did not commit
 25 caused Plaintiff to be fearful of pursuing his profession as an investigative journalist.

26 59. As a direct, proximate and foreseeable result of Defendant's negligence as alleged
 27 herein, Plaintiff has been damaged as alleged herein above in paragraph 30. The exact amount of
 28

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1 this damage is not currently known to Plaintiff, who will seek leave of court to amend this
2 complaint upon ascertaining the precise amount of said damages.

3 60. As a result of Defendants' tortious conduct as alleged above, Plaintiff has
4 suffered, and will continue to suffer, general damages. The full amount of these damages is not
5 currently known to Plaintiff, who will seek leave of court to amend this complaint upon
6 ascertaining the precise amount of said damages.

SIXTH CAUSE OF ACTION

Bane Act Violation, Cal. Civil Code 52.1, Against All Defendants

61. Plaintiff incorporates Paragraphs 1-30 above, as if fully restated herein.

10 62. Defendants injured Plaintiff or his property to prevent Plaintiff from exercising
11 his right to free speech and freedom of the press, or Defendants retaliated against Plaintiff for
12 having exercised his right to free speech and freedom of the press in violation of the Bane Act,
13 California Civil Code section 52.1.

14 63. As a direct, proximate and foreseeable result of Defendant's violation of the Bane
15 Act as alleged herein, Plaintiff has been damaged as alleged herein above in paragraph 30. The
16 exact amount of this damage is not currently known to Plaintiff, who will seek leave of court to
17 amend this complaint upon ascertaining the precise amount of said damages.

18 64. As a result of Defendants' tortious conduct as alleged above, Plaintiff has
19 suffered, and will continue to suffer, general damages. The full amount of these damages is not
20 currently known to Plaintiff, who will seek leave of court to amend this complaint upon
21 ascertaining the precise amount of said damages.

22 65. The conduct of the Defendants, and each of them, was wanton, willful, deliberate,
23 and in conscious disregard of the rights and feelings of Plaintiff, was undertaken with the intent
24 to cause Plaintiff injury and constitutes malice, actual, express and implied. Accordingly,
25 Plaintiff is entitled to an award of exemplary damages against Defendants, in a sum to be
26 established at trial sufficient to deter future similar conduct.

PRAYER

WHEREFORE, Plaintiff prays for judgment as follows:

On the FIRST CAUSE OF ACTION:

- a) For compensatory, economic and non-economic damages in an amount to be proven at trial;
 - b) For punitive damages to be proven at trial; and
 - c) For costs of suit including reasonable attorney's fees.

On the SECOND CAUSE OF ACTION:

- 9 d) For compensatory, economic and non-economic damages in an amount to be
10 proven at trial;

11 e) For punitive damages to be proven at trial; and

12 f) For costs of suit including reasonable attorney's fees.

On the THIRD CAUSE OF ACTION:

- 14 g) For compensatory, economic and non-economic damages in an amount to be
15 proven at trial;
16 h) For costs of suit including reasonable attorney's fees.

On the FOURTH CAUSE OF ACTION:

- 18 i) For compensatory, economic and non-economic damages in an amount to be
19 proven at trial;
20 j) For costs of suit including reasonable attorney's fees.

On the FIFTH CAUSE OF ACTION:

- 22 k) For compensatory, economic and non-economic damages in an amount to be
23 proven at trial;
24 l) For costs of suit including reasonable attorney's fees.

On the SIXTH CAUSE OF ACTION:

- 26 m) For compensatory, economic and non-economic damages in an amount to be
27 proven at trial;
28 n) For punitive damages to be proven at trial; and

1 o) For costs of suit including reasonable attorney's fees.

2 **ON ALL CAUSES OF ACTION:**

3 p) For restoration of Plaintiff's wrongfully seized property;

4 q) For pre and post-judgment interest on all damages and other relief awarded herein
5 from all entities against whom such relief may be properly awarded; and

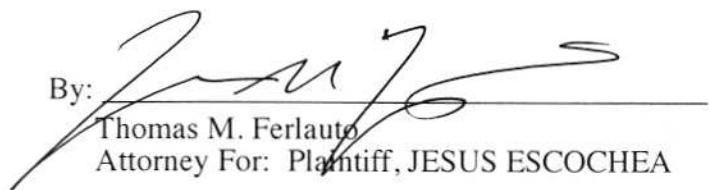
6 r) For all such other relief as this Court deems just and appropriate.

7

8 DATED: January 13, 2016

The Law Office Of Thomas M. Ferlauto, APC

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10 By: 

11 Thomas M. Ferlauto
12 Attorney For: Plaintiff, JESUS ESCOCHEA

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THE LAW OFFICE OF
THOMAS M. FERLAUTO, APC
~~8~~ WHATNEY AVENUE, SUITE 101
IRVINE, CALIFORNIA 92618
PHONE (949) 334-8650
FACSIMILE (949) 334-8691

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED: January 13, 2016

The Law Office Of Thomas M. Ferlauto, APC

By: 
Thomas M. Ferlauto
Attorney For: Plaintiff, JESUS ESCOCHEA

THE LAW OFFICE OF
THOMAS M. FERLAUTO, APC
8 WHATNEY AVENUE, SUITE 101
IRVINE, CALIFORNIA 92618
PHONE (949) 334-8650
FACSIMILE (949) 334-8691

EXHIBIT 1

SERVICE Copy

SW NO. _____

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

SEARCH WARRANT AND AFFIDAVIT (AFFIDAVIT)

Senior Investigator R. Valdivia #146, swears under oath that the facts expressed by him in this Search Warrant and Affidavit and in the attached and incorporated Statement of Probable Cause are true and that based thereon he has probable cause to believe and does believe that the property and/or persons described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

R. Valdivia

(Signature of affiant)

NIGHT SEARCH REQUESTED: YES [] NO [X]

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER, OR PEACE OFFICER IN THE COUNTY OF LOS ANGLES: proof by affidavit having been made before me by Senior Investigator R. Valdivia #146, that there is probable cause to believe that the property and/or person described herein may be found at the locations set forth herein and is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x" (s) in that:

- it was stolen or embezzled
- it was used as the means of committing a felony
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- it tends to show that a felony has been committed or that a particular person has committed a felony
- it tends to show that sexual exploitation of a child in violation of Section 311.3 or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring
- there is a warrant for the person's arrest

YOU ARE THEREFORE COMMANDED TO SEARCH:

LOCATION #6 17725 Crenshaw Blvd., Suite #304, Torrance, California 90504

SEE ATTACHED AND INCORPORATED DESCRIPTION PAGE

FOR THE FOLLOWING PROPERTY:

SEE ATTACHED AND INCORPORATED DESCRIPTION PAGE



AND TO SEIZE IT IF FOUND and bring it forthwith before me, or to this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 27th day of April, 2004 at 2:35 A.M./P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

Henry J. Hall

(Signature of Magistrate)

NIGHT SEARCH APPROVED: YES [] NO [X]

Judge of the Superior Court, *Conrad* Judicial District.

SW & A1

DESCRIPTION OF LOCATION(S) TO BE SEARCHED

LOCATION TO SEARCH #6

**17725 Crenshaw Blvd., Suite #304
Torrance, CA 90504
Los Angeles County**

17725 Crenshaw Blvd., Suite #304, Torrance, California 90504 is described as a three story office building located on the west side of Crenshaw Boulevard. The building is approximately centered between West 177th Street and West 178th Street. **Suite #304** is on the 3rd floor of the building. The entry door to suite #304 faces west and has the number "304" on it.

The search is to include all rooms, desks, filing cabinets, containers, areas, safes, storage areas and trash containers.

PERSON(S) TO BE SEARCHED:

Edward Joseph Ortega
Male / Hispanic / 5'11" / 190 / Brown / Hazel
DOB: 11/12/1971
CDL: A3102108
SS#: 563-53-1574
CII: A10727542

VEHICLE(S) TO BE SEARCHED:

Any vehicle under the control of or occupied by **Edward Joseph Ortega** at the time this warrant is served including:

1993 Dodge pick-up truck, California vehicle license plate 57653A1
1991 Mazda, California vehicle license plate 6JHC938
2007 Ford, California vehicle license plate OPLEEZ
Jeep Cherokee, California vehicle license plate 4PTJ188
1985 Chevrolet Suburban, California vehicle license plate 4ZRU406

PROPERTY TO BE SEIZED:

Records or articles of personal property tending to establish and document that **Edward Joseph Ortega** or possible co-conspirators had solicited employment, are currently employed or had been employed by entities, including but not limited to the **City of Hawthorne**, as a private investigator operating under the business name "**OHI Services**," and/or utilizing **private investigator license # 18632**, and/or utilizing **social security number 554-27-8171**. Records include employment records, files, correspondence, notebooks, notes, personal telephone/address books, diaries, letters, business records, financial records, contracts, checks, papers, documents, printed materials, digital information stored within computers, emails, any and all handwritten notes or printed materials describing computer operation and/or confidential password lists used to access secured computer files. Personal property includes computers, computer discs, CD ROMS and/or flash drives, keys to lock boxes, safes and safety deposit boxes.

Articles of personal property tending to establish the identity of persons in control of the premises, vehicles, storage areas, or off-site work offices where **Edward Joseph Ortega** or possible co-conspirators could solicit employment, maintain employment or store records of past employment with entities, included but not limited to the **City of Hawthorne**, as a private investigator operating under the business name "**OHI Services**," and/or utilizing **private investigator license # 18632** and/or utilizing **social security number 554-27-8171**. Articles of personal property include utility company receipts, rent receipts, canceled mail envelopes, photographs, keys, telephone answering machine and answering machines tapes; papers, documents and effects which tend to show possession or domain and control over said location, including keys, canceled mail, rental agreements and receipts, utility bills, telephone bills, vehicle registration and bill of sale, address and telephone books showing possible co-conspirators, documents, or any objects bearing the names, telephone numbers and addresses of possible co-conspirators.

Any bank account(s) to which **Edward Joseph Ortega** has, or has had, access and/or control, to include the following:

Original of all signature cards and application(s) filed in connection with said account(s);

Copies of any records pertaining to identification of persons using account(s), including photographs, driver's license number(s), or any other means of identification;

Copies of all financial statements, including monthly statements issued for said accounts, or related accounts, including account balances, from **04/22/2010 to present** or closing of said accounts;

Copies of all documents pertaining to withdrawals of funds from said account(s) or related accounts, including copies of all checks drawn on the accounts;

Copies of all documents pertaining to deposits of funds to said accounts or related accounts, including copies of all checks, warrants, or other instruments deposited to accounts;

Copies of any safe deposit box logs;

Contents of safe deposit box to which subject has access; be it account holder, power of attorney, attorney-in-fact and/or are authorized signature;

Any of the aforementioned evidence listed as evidence to be seized, whether in documentary form or contained on electronic storage devices capable of storing electronic data including electronic mail, images, data, files, web pages, documents, address books and partially deleted files stored in unallocated space.

Computer software that is stored electronically, magnetically, optically or digitally, including operating systems, applications, utilities, compilers, interpreters and communications programs.

Computer password and data security devices used to conceal or restrict access to the evidence described herein. Data security devices may consist of hardware, software or other programming codes.

For any computer hard drive or other electronic media (hereinafter, "COMPUTER") found to contain information otherwise called for by this warrant:

Evidence of who used, owned or controlled the COMPUTER at the time the things described in this warrant were created, edited or deleted, such as logs, registry entries, saved usernames and passwords, documents, and browsing history; evidence of software that would allow others to control the COMPUTER, such as viruses, Trojan horses, and other forms of malicious software; evidence of the lack of such malicious software; evidence of the attachment to the COMPUTER of other storage devices, disks, CD-ROMS, or similar containers for electronic evidence; evidence of the times the COMPUTER was used; passwords, encryption keys, and other access devices that may be necessary to access the COMPUTER; documentation and manuals that may be necessary to access or conduct an examination of the COMPUTER.

The search, as to the above persons and premises is to include the taking of photographs and/or imaging of the individuals, vehicles and premises (interior and exterior) for identification purposes.

EXHIBIT 2

INSTRUCTIONS

1. Fill out the form completely.
2. Locations: Each location will be designated by a number beginning with 1; the first location will be 1, the second location will be 2, etc.
3. Each area of the location searched where items are seized will be identified and followed with an alpha letter, beginning with "A," i.e., Living Room (A); Bedroom #1(B), Vehicle 1990 Cadillac Seville, license #2BAD000 (C), Garage (D), Storage Shed (E), Outdoor Trash Receptacle (F), etc.
4. Items seized will be listed underneath the area searched. Each item will be numbered consecutively and the area alpha letter will be listed behind it, i.e., 1A1, 1A2, 1A3, etc., 2A1, 2B1, 2B2, 2B3, etc.
5. Items seized will be marked prominently as indicated above.
6. In most cases, attempt to put consecutive items in the same container, i.e., 1A1 through 1H23 would be put in container or box #1.
7. Property: Identify concisely and briefly.
8. Serialized Property: Identify make or brand name, type of property, model number, and serial number. Be certain to obtain an accurate count of items seized.
9. Weapons: Identify by brand name, include caliber, type of weapon, model number, and serial number, i.e., S&W 38 cal. Revolver, model #67, serial #V00000; Remington 12 Ga. Shotgun, pump, model 870, serial #0000000.
10. All inventorying, marking of evidence and boxes must be completed prior to placing into evidence at the evidence storage location.
11. Use a continuation sheet if more than one page is required to record seized property.

PAGE 1 OF 4 PAGES

DISTRICT ATTORNEY'S OFFICE
COUNTY OF LOS ANGELES
PROPERTY RECEIPT AND
INVENTORY

SEARCH WARRANT: YES NO

IF NO, EXPLAIN:

PROPERTY #
3492
DATE
CASE NAME
CASE NUMBER
CASE INV.

LOCATION ADDRESS:

LOCATION #

PERSON FROM WHOM PROPERTY WAS TAKEN: (NAME) (TITLE)

INVENTORY

ITEM	BOX #	DESCRIPTION OF PROPERTY
		Area A -
		FOUND ON TOP OF DESK BY VALDIVIA
6 A-1		RESUME FOR "JESSE ESLOGHEA", 2 PAGES
6 A-2		VELIZON CELL PHONE RECORDS FOR ED ORTEGA, 2 PAGES
6 A-3		UNION BANK DEPOSIT SLIP FOR ED ORTEGA IN THE AMOUNT OF \$ 800.00 # 3580470814
6 A-4		BUSINES CARD FOR LA COUNTY DDA EDWARD A. MILLER.

ROOM SEARCHED BY: VALDIVIA # 146

ITEMS RECORDED BY: J. B. STUPP # 175

AFFIDAVIT: I, Hector Alvarado, THE D.A. INVESTIGATOR BY WHOM THIS WARRANT WAS EXECUTED DO SO
Team Leader (Print Name)SWEAR THAT THE ABOVE INVENTORY CONSISTING OF ____ PAGE(S) CONTAINS A TRUE AND DETAILED ACCOUNT OF ALL
THE PROPERTY TAKEN BY ME ON THE WARRANT (1537 P.C.).Hector Alvarado

PRINT NAME / SIGNATURE OF TEAM LEADER

DATE

TIME SERVED

J.W.B. 1/15/111/15/11
2/2/20111015
1300

PRINT NAME / SIGNATURE OF TRANSPORTING INVESTIGATOR

DATE

TIME OBTAINED

PROPERTY RECEIVED BY PROPERTY CUSTODIAN

DATE

TIME BOOKED

WHITE - PROPERTY CUSTODIAN

YELLOW - INVESTIGATOR

PINK - COURT

GREEN - SEARCH LOCATION

CONTINUATION SHEET

PAGE 2 OF 4 PAGES

DISTRICT ATTORNEY'S OFFICE COUNTY OF LOS ANGELES PROPERTY RECEIPT AND INVENTORY	PROPERTY # 3Z92	DATE CASE NAME CASE NUMBER INVESTIGATOR 4-28-2011 OBRIEN 2010-6-2856 R VALDIVIA #146
INVENTORY		
ITEM	BOX #	DESCRIPTION OF PROPERTY
		AREA "A"- OFFICE CONTINUED
6A-5		HAND WRITTEN NOTES WITH DATES
6A-6		Hertz RENTAL CAR RECEIPT
6A-7		O.H.I. SERVICES CLIENT AGREEMENT, 4 PAGES
6A-8		MY BOOK HOME EDITION EXTERNAL HARD DRIVE SERIAL # WCAU48364379
6A-9		MAYTOR XTERNAL HARD DRIVE SERIAL # Y64FDK3E
6A-10		POWERMAC G-4 DESK APPLE CPU YR03Z0F8J3B WITH POWER CORD
6		AREA "A" OFFICE (CONTINUED) FOUND ON SHELF ALONG EAST WALL BY ALVINA
6A-11		THREE DAY NOTICE TO PAY RENT OR QUIT 17725 CRANSHAW BLVD SUITE 304
		AREA "A" OFFICE CONTINUED FOUND ON FLOOR NEAR NORTH WALL BY VALDIVIA
6A-12		WHITE DELL CPU WITH BLACK 4GB THUMB DRIVE INSERED SERIAL # SDCZ34-00416 CPU SERIAL # ZLNVV711 N POWER CORD
ROOM SEARCHED BY: VALDIVIA #146		
ITEMS RECORDED BY: R VALDIVIA #175		

CONTINUATION SHEET

PAGE 3 OF 5 PAGES

ROOM SEARCHED BY: ALVANIA #122 VANDIA #140

ITEMS RECORDED BY: J. Bishop #175

**WHITE - PROPERTY CUSTODIAN
YELLOW - INVESTIGATOR
PINK - COURT
GREEN-SEARCH LOCATION**

CONTINUATION SHEET

PAGE 4 OF 4 PAGES

DISTRICT ATTORNEY'S OFFICE COUNTY OF LOS ANGELES PROPERTY RECEIPT AND INVENTORY		PROPERTY # 3292	DATE 4/28/2011
		CASE NAME O'BRIEN	CASE NUMBER 2010-G-2856
		INVESTIGATOR R VALDIVIA #146	
INVENTORY			
ITEM	BOX #	DESCRIPTION OF PROPERTY	
		AREA "B" STORAGE ROOM FROM SAFE LOCATED ON S/W CORNER OF ROOM	
6 B-1		NUMEROUS CITY OF HANTHORNE INTERNAL DOCUMENTS	
6 B-2		NUMEROUS CITY OF HANTHORNE INTERNAL DOCUMENTS LOCATED INSIDE A WHITE FFO EY ENVELOPE.	
6 B-3		COMPACT DISK LABELED "ESCOBAR INTERVIEW"	
6 B-4		COMPACT DISK LABELED "CRUIKSHANK INTERVIEW"	
6 B-5		CHAVEZ C. MPAK DISK LABELED "CHAVEZ INTERVIEW"	
6 B-6		COMPACT DISK LABELED "GUTIERREZ INTERVIEW"	
6 B-7		COMPACT DISK LABELED "DICRISCI INTERVIEW"	
6 B-8		COMPACT DISK LABELED "OBRIEN INTERVIEW"	
6 B-9		COMPACT DISK LABELED "VALKYRIE AUDIO"	
6 B-10		MAXTOR EXTERNAL HARD DRIVE SERIAL # L60NMJZ6	
6 B-11		EXTERNAL FLASH DRIVE SERIAL # BH07041513/SDNCK	
6 B-12		KINGSTON FLASH DRIVE, DATA TRAVELER 8GB	
ROOM SEARCHED BY: R VALDIVIA #146			
ITEMS RECORDED BY: J. BISHOP #175			

EXHIBIT 3

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 111

Date: November 12, 2015
Honorable: Henry J. Hall

Judge I. Perez

Clerk
Reporter

(Parties and Counsel checked if present)

The People of the State of
California

VS

Counsel for People:

Edward Joseph Ortega,
Defendant

Counsel for Defendant:

CASE: SA077354

Nature of Proceedings: FINDINGS FROM *IN CAMERA* REVIEW – Search Warrant 61933

The Court unsealed and reviewed the search warrants and supporting documents and exhibits *in camera*.

The findings of this review are set forth in a separate document.

The search warrants and supporting documents and exhibits are hereby ordered resealed pending any further order of this or any other competent court, and are to be returned to the clerk's office.

Court's Findings from *In Camera* Review is signed and filed.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 111

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 12 2015

Sherri R. Carter, Executive Officer/Clerk
By I. Perez, Deputy
I. Perez

In re:

)
SEARCH WARRANT 61933
)
)
)

**FINDINGS FROM
IN CAMERA
REVIEW**

The court has unsealed and reviewed the search warrants and their supporting documents, affidavits, and exhibits. The file in this matter contains two separate search warrants, one dated April 18, 2011, and the other dated April 27, 2011, under the same search warrant number.

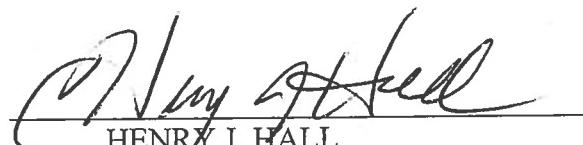
As to the April 18, 2011, search warrant, the signature and other writing on the face of the warrant, the original sealing order, and the handwritten limitations on what could be searched found on pages four and five of the "description" section, are in blue ink and appear to be genuine. Each page of this warrant's supporting "description" section, documentation, affidavits, and exhibits bears the court's initials, which are also in blue ink and appear to be genuine, on or near the bottom right corner, which is this court's practice when reading and ruling on requests for the issuance of search warrants.

The April 27, 2011, search warrant appears to be an extension of the April 18, 2011, search warrant to a different address. As to this April 27, 2011, search warrant, the signature and other writing on the face of the warrant and the original sealing order are in

blue ink and appear to be genuine. However, the court's initials do not appear on any of the pages of the "description" section, supporting documentation, which would be at odds with this court's practice. Moreover, the handwritten limitations in the "description" section of the April 18, 2011, search warrant, do not appear on the very similar April 27, 2011, search warrant. As the statement of probable cause in the April 27, 2011, search warrant is essentially the same as and incorporates the statement of probable cause in the April 18, 2011, search warrant, this court would have imposed similar limitations on the scope of the authorized search.

The search warrant and the supporting documents, affidavits, and exhibits are ordered resealed subject to an order from this or any other competent court.

Dated this 12th day of November, 2015.



HENRY J. HALL
Judge of the Superior Court

